

Children's Advocate



Annual Report
1998-1999



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Introduction

The role of the Children's Advocate in Alberta is to represent the rights, interests and viewpoints of children and youth receiving services under the Child Welfare Act. Another duty under the legislation is to advise the Minister on how the child welfare system and the service provided impacts the young people it is supposed to help. One of the ways that duty is met is in the preparation of an annual report to the Minister responsible for the Child Welfare Act. Since 1989 when the Office of the Children's Advocate was created, annual reports have described the shortcomings of child welfare services in Alberta in the hope that action would be taken to make improvements. In spite of repeated descriptions of deficiencies, the child welfare system continues to fail too often to adequately serve many of the young people for whom it has a legal responsibility. In the 1997/98 annual report we detail the chronology of deficiencies observed in the course of our work with children and youth. As we mark the end of a decade of annual reports, we continue to witness the same deficiencies.

In talking about issues there is a danger of forgetting that the impact of inadequate service falls directly on real people. Young people have hopes and dreams much like you do. Young people want to be treated with fairness and respect much like you do. Using different names to protect confidentiality, we have described the real experiences of young people with whom we have been involved. Our intent is to impress upon those who find it easy to disregard the real needs of youth, that real people for whom government has a legal responsibility are not always served well in government care. If children are truly a priority of our government, there is much yet to be done. The examples used are representative of the experience of many young people we encounter in the course of our work.

In early 1999 the Premier officially communicated Alberta's endorsement of the 1989 United Nations Convention on the Rights of the Child. We applaud that action as a formal statement that children and youth have rights as persons separate and apart from those of their parents. The

Children's Advocate's office operates on the principle that young people have rights. They have the right to be protected. They have the right to have a voice in decisions that affect them. They have the right to an adequate level of care in accordance with their needs. They have the right to cause a review of decisions they don't believe to be in their best interest. Too often in the course of our work with young people in care we find that they have been left to fend for themselves. Too often we find that young people are not involved in decisions that affect them. Too often we find that young people are provided with an inadequate level of care. Too often we find that young people are not advised of their right to formally question decisions they believe to be unfair.

Endorsement of the 1989 United Nations Convention on the Rights of the Child by Alberta is a very positive step. The challenge for Alberta now is to live up to the commitment to the rights of children that such endorsement represents. Alberta is a province with the means to improve the protection and care of those vulnerable young people who come into the care of the child welfare system. If the government of Alberta truly places a high priority on the well-being of children, it must act to positively address the inadequacies of the Alberta Child Welfare system.

Bob Rechner
Children's Advocate

Responsibilities of the Children's Advocate

On any given day in Alberta there are over 12,000 children and youth who are receiving child protection services. These young people have been found neglected or abused and require the authorities of a director of Child Welfare to ensure their safety and development.

Approximately 50% of these young people are able to remain in the custody of their parent(s) or extended family. Child Welfare workers provide support to these families to ensure the young person's needs are adequately being met.

The other half of the population of children receiving child protection services are in the care of a director of Child Welfare. Because of concerns for the well-being of these young people, they have been placed, in accordance with their needs, with a variety of caregivers. Most of these caregivers are foster parents; others include group home staff and residential treatment providers. Older youth may experience a variety of living arrangements designed to prepare them for living independent of adult supervision. Child Welfare staff and the adults caring for these young people can be effective advocates in the absence of their parents. There are, however, situations where there are competing opinions as to what may be the best decision to make on behalf of a young person and the young person requires assistance to ensure their viewpoint is heard during the decision-making process. In addition, the needs of the system serving these children sometimes conflict with the interests of the child. When this happens, the young person usually feels alone and powerless.

The Children's Advocate is mandated to serve children who are in receipt of child protection services by advocating on their behalf, individually or collectively. The Child Welfare Act empowers the

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Children's Advocate to speak on behalf of young people unable to speak for themselves, to support youth in being heard, to represent their interests, and to ensure their rights are exercised. Based on information gained through this work with young people, the Children's Advocate is able to provide advice as to what aspects of the service system are not meeting the needs of children and where opportunities for improvements may exist.

The Role of the Children's Advocate

The role of the Children's Advocate within the Child Welfare system is very unique and generally not readily understood.

In order to be effective, the program was designed to operate independent of the systems responsible for administering the Child Welfare Act. Consequently, the Children's Advocate reports directly to the Minister responsible for the Child Welfare Act.

The Children's Advocate program exists to serve children exclusively. Child Welfare workers who feel they have been treated unfairly may seek the support of their Union. Foster parents may find support through their local and/or provincial Foster Parent Association. Young people in Alberta who are within the Child Welfare system and feel they are not being served properly also have someone to turn to – the Children's Advocate.

The Children's Advocate has no decision-making authority in Child Welfare matters. The program has been founded on the belief that there are numerous decision-makers involved with these children already (e.g. Child Welfare workers, supervisors, managers, appeal bodies, courts, etc.). Being free of any decision-making responsibilities, the Children's Advocate is empowered to focus exclusively on representing the young person's interests and viewpoints. This form of advocacy assumes that others will make decisions they deem in the best interest of the child and that these decisions will be more effective when they have considered the opinion of the young person. Young people benefit from opportunities to be heard that demonstrate respect for them as individuals and affords them experiences in learning how to have greater control over their lives. Youth may not always get what they want, however, if they feel they were at least heard, they will feel recognized and respected.

For youth capable of expressing their own viewpoint, the role of the Advocate is to support them in having their voice heard by decision-makers. Information is provided to them on matters such as Child Welfare program

*"Told me what was going on,
also asked what I wanted to
do and helped me understand
things more"*

Youth Client

policies and standards, entitlements, legislated rights and informal and formal appeal processes. If the youths are not confident to speak for themselves, the Advocate will represent them in accordance with their expectations.

For children who are unable to formulate a viewpoint and express it, the Advocate will focus on two activities. The first is to endeavor to ensure all the relevant information is made available to the decision-makers so that decisions are based on full consideration of the facts. A second role is to remind the decision-makers of those factors that are critical to the interest of the child. In this regard, the Child Welfare Act provides a set of principles that are to be applied by anyone making a decision under the Child Welfare Act. These principles may be found as Appendix A in this report.

Individual Advocacy Services

Accessing Young People

The Children's Advocate receives referrals directly from young people or from adults. Most of the referrals are made by adults who are involved in the life of a child in some manner. Child Welfare workers make the most referrals by virtue of their relationship with the children they serve.

Referral Source	Count
Self-Referral	461
3rd Party	618
Mandatory	126
Own Motion	9
Anonymous	2
No. of Referrals Received	1216

Child Welfare workers are also expected to make mandatory referrals when they determine certain circumstances exist.

"Mandatory Notifications to the Children's Advocate are to occur when:

- A child has been given a full explanation of a proposed significant decision or a case plan and disagrees with what is proposed;
- A child is alleged to have suffered emotional, physical or sexual abuse while in care;
- There are strong, competing points of view among the significant people involved with the child regarding a proposed decision or course of action in respect to a child;
- A child is not having their needs met, their rights are not protected; their viewpoints or interests are not being considered, or all relevant information is not being considered."

During the year the program was involved with 2350 children compared with 2189 the previous year. Advocates provided comprehensive services for 1558 individuals. Another 792 were supported in having their needs

Children's Advocate
Program Policies Procedures
CWM-01-05-11
Page 5, 1999

met through the support of natural advocates and/or the individual pursuing resolution of the issue themselves.

Individual Advocacy	1558
Miscellaneous	792
Total	2350

Individual advocacy services were managed from offices located in Edmonton and Calgary. As mentioned in the Annual Report for 1997-98, the demand for services has increased in recent years due to the Child Welfare caseload growth. Effective April 1, 1999 the program was able to expand by five Advocates due to the redeployment of a position and the allocation of new funding by the Ministry.

The data below provides a profile of the children served by age and racial origin.

Age Group	Count
0 - 5 years	184
6 - 11 years	368
12 - 17 years	892
18 - 20 years	112
Over 20 years	2
Grand Total	1558

Racial Origin	Count
Aboriginal and Metis	609
Caucasian	681
Other	60
Unknown	208
Grand Total	1558

Presenting Issues

Most youth seeking the assistance of the Children's Advocate are experiencing a conflict with someone who has control over them. This may be the Child Welfare worker or others responsible for their care and provision of services.

The nature of the issues of importance to youth are illustrated by these examples taken from the program's records:

- youth disagrees with the caseworker's plan to pursue a Permanent Guardianship Order
- youth in disagreement with current placement
- youth denied sibling visits
- youth wants input into planning
- youth is fearful the worker will terminate services
- youth has nowhere to live
- group home staff withholding money earned

In other situations, the Child Welfare worker and/or service providers may share the young person's opinion, however, they are unable to help the individual due to systemic limitations. Examples of these limitations include budget limitations, policy requirements, and insufficient resources. Advocacy services provided by the Children's Advocate in these circumstances involves a conjoint effort to attain a common goal. Examples of these referrals are:

- worker concerned about lack of placement resources for child
- worker wants child's wishes heard by the Child Welfare Appeal Panel
- worker requesting children be represented at a case conference by an Advocate
- worker requesting an Advocate interview the children
- worker concerned about child's care in a treatment centre
- worker is opposed to the managers decision to move the child
- no placement for mentally ill youth

Referrals from parents, family members, and service providers generally represent a difference of opinion between the caller and the Child Welfare worker. Examples are:

- father feels worker is not doing anything to reunite the family
- grandmother wants grandchildren placed in her care
- Child Welfare staff will not support placement with extended family
- guardian concerned with child's placement
- foster parent feels parental visits are damaging to the child
- foster parent believes the child's education needs are not being met
- foster parent reports children do not want to move from their care
- foster parents want child represented at court hearing

*"I like the feeling that the
advocate was here for me
and only me."*

Youth Client

These referrals are explored carefully to ensure that the issues(s) presented are concerns for the young person and not issues of significance only to the caller.

Common Experiences

The Children's Advocate program has operated for nearly a decade in Alberta. During this period of time the Advocates have observed through their role with individual young people how the Child Welfare system impacts its young clients. These experiences have not changed much over the years.

While Child Welfare practice varies greatly from Region to Region and from practitioner to practitioner, there is a tendency to exclude the young person from decision-making processes. Experts involved in addressing the needs of young people in care tend to consult with one another and then inform the child of the outcome. Such practice excludes the young person from feeling any sense of control over their lives. Positive outcomes for young people increase dramatically when they feel they have been part of the process that decided upon issues of great importance to them.

Sandra

Sandra wanted a placement in a particular setting which could only be accessed with the approval of the local Placement Committee. Her social worker and her Advocate arranged for her to appear before the Committee so that she could tell them her reasons for wanting to be there.

When her Advocate took her to the location where the Committee was meeting, she was told she would have to wait in the hallway while the Committee reviewed her circumstances. The youth and the Advocate could hear the deliberations of the Committee while they waited.

After finishing deliberations, the Committee invited the youth and the Advocate into the room. While the decision was consistent with the wishes of the youth, she was extremely upset with the way she had been treated. She very tactfully made her views known to the Committee regarding how she felt about being excluded from representing herself before them.

There was no apology offered to the youth.

Comments

Sandra's experiences are not unique as many youth feel they have not been treated respectfully by the Child Welfare system. Youth want to have a say when decisions are made for them and the Child Welfare Act gives them that right.

Child Welfare Act

Section 2(d)

a child, if the child is capable of forming an opinion, is entitled to an opportunity to express that opinion on matters affecting the child and the child's opinion should be considered by those making decisions that affect the child.

United Nations Convention on the Rights of the Child

Article 12:

"State Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child."

Mike

Mike is three months from being 18 years old. He was adopted as a youngster and physically and sexually abused by his adoptive father. As a result of alcohol abuse by his biological mother, he has severe learning difficulties and tendencies towards aggressive, violent behaviors.

Mike's adoptive mother has sought help from child welfare on several occasions. Mike's behaviors are not easily managed. He has been told recently by child welfare staff that he is too dysfunctional for any of their resources. He has spent time in custody under the Young Offenders Act and has frequented a youth shelter.

Mike came to the Children's Advocate's office for information on how he could convince Child Welfare to assist him. He had no funds. With literacy skills at a grade one level and no job training, he could not find employment. He was considering committing further offences in order to get a place to stay but was afraid that his life would be wasted in jail.

This youth was denied any assistance from child welfare because he has a history of being resistant and uncooperative. He was told that if he found a job and a place to live, child welfare would help him out.

Since Mike was not in receipt of child welfare services, he technically was not eligible for support from the Children's Advocate. However, when youth are without any adult to assist them, the program will provide information and limited services.

The advocate called child welfare and explained that this youth would have great difficulties in securing employment since he did not have the proper identification or a social insurance number. The child welfare worker's response was "that is not my problem". When the advocate pointed out that Mike was without proper clothing for -26 weather and had no place to go, the worker's response was that the temperature was irrelevant. The worker's concluding remarks were that the youth could appeal to the Child Welfare Appeal Panel (which would take three to four weeks to complete) and because she had reason to believe he associated with gang members, she felt this demonstrated that he was capable of looking after himself.

The advocate supported Mike in taking his situation before the Child Welfare Appeal Panel where it was heard in a timely matter. The Panel directed that protective services be provided to this youth. He was subsequently happy to be treated respectfully by the new child welfare worker assigned to assist him.

Comments

Many young people feel they have to persistently struggle to access services they require. Heavy workloads and frequent changes in the Child Welfare workforce result in young people not receiving the attention they deserve. This is particularly difficult for young people who have had their guardianship transferred by the courts to a director of Child Welfare. These individuals are completely dependent on their social workers for life's essential needs.

When the system is under stress, as it has been in recent years from workloads and/or budget limitations, young people experience real hardships as a result of the reduction of services or the complete refusal to provide services.

Responding to youth like Mike presents a serious challenge to Child Welfare and other youth services. Often their behaviors and attitudes are not easy to accept, however, to deny any form of assistance and impose expectations upon them that they are unable to meet is not fair.

Comments

Older youths in care often experience life lacking a long-term plan. They move from placement to placement and frequently disappear whenever they are on the run or have found their own places to stay. While they speak of dreams to be realized through training, education and employment, their actual life experience is marked by instability and surviving from day to day. The need to provide young people with opportunities to succeed as emerging adults remains a challenge to the Child Welfare system. While society has embraced families to support their offspring well into their twenties and beyond, youth dependent on the guardianship of the province have had to accept something far less.

Greg's story is not an unusual representation of many youth we encounter. Family disintegration frequently leaves youth like Greg homeless. Life becomes one of subsistence through the generosity of friends. There are also periods of time when nightfall means sleeping in the stairwell of a building or under trees in a park.

These youth ultimately come to the attention of either the juvenile justice system or Child Welfare authorities. Interventions tend to be brief, conflict ridden, and marked by broken promises made by both the young person and the service providers.

Youth in these circumstances are often made to feel completely responsible for their circumstances and are quickly condemned for any failures. As they get older, the patience held by service providers decreases.

Greg

Greg was a 17 year old trying to cope with life apart from parents when he was referred to the Children's Advocate. His mother lives some distance away and he sees her only once a year. His father is raising his younger brother and step-siblings.

At age 13, Greg was into drugs and the selling of them. He associated with gangs, abused alcohol and failed to attend school. His father asked Child Welfare to assume responsibility for his care.

Four months in a group home convinced Greg to try living with his father again. Shortly thereafter, he ran away to another province where he found labor work for several months before returning to Alberta. His girlfriend's family took him in.

An argument with someone turned into threats, charges under the Young Offenders Act were laid and he was placed in closed custody. His anger resulted in him being placed in isolation.

Although he was eligible for release, both his father and Child Welfare refused to help him. At his court hearing the Court directed that Child Welfare become involved. He again experienced group home life. He recalls Christmas being a time when he remained in the home with another resident as neither had families interested in them. The only way out of the group home was to try living with his father again, but that was short-lived.

Life for Greg now meant avoiding Child Welfare and his father. Survival depended upon staying with friends and living on the streets. He often slept in parks and wooded areas. A counselor encouraged him to ask Child Welfare again for assistance. Because of his previous behavior he was denied. Through the work of the Children's Advocate in assisting him to appeal the refusal of services, he was successful in being helped again by Child Welfare.

Greg currently resides in a supported independent living situation and attends an outreach school program.

While these young people are not easily served successfully, greater efforts must be invested in assisting them. It must be recognized that childhood abuse often gives rise to low self-esteem and aberrant behaviors.

Child Welfare Act

Section 2(b)

the interests of a child should be recognized and protected.

Section 2(k)

if a child is being provided with care under this Act, a plan for the care of a child should be developed that will address the child's need for stability and continuity of care and relationships.

United Nations Convention on the Rights of the Child

Article 39:

State Parties shall take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of: any form of neglect, exploitation, or abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment; or armed conflicts. Such recovery and reintegration shall take place in an environment which fosters the health, self-respect and dignity of the child.

Article 20:

1. A child temporarily or permanently deprived of his or her family environment, or in whose own best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the State.
2. State Parties shall in accordance with their national laws ensure alternative care for such a child.

Systemic Issues

Through work on behalf of individual young people, advocates are able to identify within the Child Welfare system issues that impact any number of children within a Region, any number of Regions or throughout the Province.

Outstanding Systemic Issues

Several systemic issues documented in previous Annual Reports remained evident throughout this year:

- A lack of appropriate placement resources for children in care.
- Insufficient attention towards planning for the long-term security of children in care.
- The reluctance to adequately serve youth over the age of sixteen.

Our experience with young people throughout the year indicated that these issues continue to be serious deficiencies in the delivery of Child Welfare services in Alberta.

These deficiencies and their chronic nature are fully discussed in the 1997-98 Annual Report.

Financial Needs and Child Welfare

Until recently, emancipated youth could obtain financial assistance from the provincial income support program. These benefits, while limited, were often the only temporary assistance some youth required. During planning for the separation of adult services from children's services within the Alberta Family and Social Services Department, there was a decision to cease providing any financial assistance to individuals under the age of eighteen through adult programs. Senior management within the Department agreed that the ability to issue financial assistance to youth should be transferred to Child Welfare. Child Welfare, however, had no mechanisms in place for the administration of a financial benefit program. This transfer has never been completed and remains unresolved.

Our office frequently meets emancipated youth who are capable of caring for themselves. There are, however, brief periods of time when they require assistance to purchase necessary clothing, meet immediate rent obligations and the like. In the absence of their ability to secure financial assistance, they may seek Child Welfare status or resort to street life.

Child Welfare workers should have the capacity to provide some immediate financial assistance to young people when appropriate as an alternative to applying the full force of the Child Welfare Act.

Children's Mental Health

The chronic deficiency of resources in Alberta for youth experiencing mental health problems has been well known to many who work with young people. While there is a history of studies related to the need to develop appropriate mental health services for young people, the province lacks a comprehensive action plan.

The needs of these young people are most evident within the population who are placed in secure treatment facilities. These resources were developed by the Child Welfare system to meet the immediate need to protect youth in danger of harming themselves or others. Placements are confining in nature and limited in duration.

Secure treatment beds in the province are usually fully occupied. Consequently, Child Welfare workers are apprehensive in applying for a court order for secure treatment because they may not be able to comply with the order. Maintaining these young people in inadequate placements poses serious risk to the youth and others they may harm.

There are also young people in these resources who have no appropriate treatment facility to access upon their discharge. While secure treatment placements are intended to be short-term pending stabilization of behavior for transfer to long-term care, we are aware of young people who have stayed in secure treatment for up to a year.

This year the Provincial Mental Health Board undertook efforts to ensure new funding was made available to the Health Authorities to meet the needs of adolescents. This office participated on a committee that strategized how new funding could be effectively allocated. While a step in the right direction, much more needs to be done to develop a comprehensive system of mental health services for young people.

Maintaining these young people in inadequate placements poses serious risk to the youth and others they may harm.

Comments

James, like many other youth in need of mental health services, was taken into care by the Child Welfare system because there were no other options for his distraught parents. Frequently, the Child Welfare system does not have access to appropriate resources for these children resulting in a series of temporary care arrangements. While these arrangements may protect the child, they fail to provide the long-term treatment that is required. These cases are marked with tension between service providers, between service providers and parents, and between the youth and their guardians. Situations like those of James illustrate the importance of a concerted provincial effort to recognize and respond to the mental health needs of youth in this province.

Child Welfare Act

Section 2(h) (v)

any decision concerning the placement of a child outside the child's family should take into account whether or not the proposed placement is suitable for the child.

United Nations Convention on the Rights of the Child

Article 24:

State Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. State Parties shall strive to ensure that no child's deprived of his or her right to access such health care services.

James

James, age 12, has been beset with mental health problems since he was four years old. These problems are evident through his extremely aggressive behavior which at times poses a danger to others and himself.

His mother was distraught that her child had to be taken out of her custody by Child Welfare in order to gain the treatment he required. In addition, there was a lack of effective cooperation between the various service systems. Several months were spent attempting to secure an appropriate placement resource for him. In one placement he destroyed some property and was charged. This resulted in him being placed in a Young Offender Centre. Once this happened, his legal status with Child Welfare terminated.

At the time the Advocate concluded his involvement with James, he was scheduled for a month long assessment in a hospital program, however, he required a placement for every weekend and within one month's time the program would shut down for the summer. Ad hoc arrangements were being made for the weekends and there was no plan for his care in one month when he would again be without a resource.

Our office frequently meets emancipated youth who are capable of caring for themselves. There are, however, brief periods of time when they require assistance to purchase necessary clothing, meet immediate rent obligations and the like. In the absence of their ability to secure financial assistance, they may seek Child Welfare status or resort to street life.

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Child Welfare Act

Section 2(h) (v)

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United Nations Convention on the Rights of the Child

Article 4

States Parties shall take all appropriate measures to implement the rights recognized in this Convention to the maximum extent of their resources.

Article 26

States Parties shall recognize the right of the child to be free from all forms of neglect, abuse and exploitation.

Article 39

States Parties shall take measures to promote the physical and psychological recovery and social reintegration of a child victim of:

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"Goal: Every child receiving Child Welfare services will be placed in a permanent, nurturing, stable environment as quickly as possible."

(Forever Homes:
Terms of Reference
August 21, 1998)

Yellowhead Tribal Council undertook a project to establish custom adoption homes for children in permanent care with Band membership. While these local projects are a beginning, this office continues to have contact with children we consider to be living in a state of limbo in the absence of a plan that may give them some stability.

Permanency Planning

In the Annual Report for 1996-97, a nine year old girl was quoted as stating she "just wanted a forever home." This child's voice was heard by the Minister and the Government. This resulted in a reference being made in the Speech from the Throne for a commitment to pursue 'Forever Homes' for children involved in the Child Welfare system. It was significant that the Minister sought to improve the lives of children in care by seeking stability in an enduring and caring family-like environment where the child is nurtured and receives good care.

Initially, it was the impression of this office that Forever Homes would result in a project dedicated to the realization of some goals. It did not result in a practice guideline nor did it take the shape of a program. The Deputy Minister at that time stated that it's a mindset to be instilled in the work of all Child Welfare staff. This is a valuable intention, but to ensure proper implementation in practice, something more compelling than a good intention is needed.

One of the tasks identified in the Terms of Reference was to "establish a baseline as to Alberta's permanency planning efforts and success in finding Forever Homes". (Forever Homes: Terms of Reference, August 21, 1998, page 3) The Department intended to track and report on progress as the initiative unfolded. We see no evidence of such monitoring.

We are aware of some local projects that are consistent with Forever Homes intent. Some Regional Authorities have undertaken special efforts to identify and address the permanency planning required for the children in their care. For example, the Yellowhead Tribal Council undertook a project to establish custom adoption homes for children in permanent care with Band membership. While these local projects are a beginning, this office continues to have contact with children we consider to be living in a state of limbo in the absence of a plan that may give them some stability.

Comments

This case is indicative of the lack of focus on permanency planning for children that happens for a variety of reasons. Staff turnover, the lack of confidence held by some workers in adoption as an appropriate plan for some children, and the delays in formulating and implementing long-range plans for children all contribute to children like Anna living through years of uncertainty.

Child Welfare Act

Section 2(k)

if a child is being provided with care under this Act, a plan for the care of a child should be developed that will address the child's need for stability and continuity of care and relationships.

Section 2(m)

there should be no unreasonable delay in making or implementing a decision affecting a child.

United Nations Convention on the Rights of the Child

Article 8:

State Parties undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognized by law without unlawful interference.

Article 20:

1. A child temporarily or permanently deprived of his or her family environment, or in whose own best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance by the state.
2. State Parties shall in accordance with their national laws ensure alternative care for such a child.
3. Such care could include, inter alia, foster placement, kafalah of Islamic law, adoption or if necessary placement in suitable institutions for the care of the children. When considering solutions, due regard shall be paid to the desirability of continuity in a child's upbringing and to the child's ethnic, religious, cultural and linguistic background.

Anna

Anna is a 12 year old who is the subject of a permanent guardianship order. She has been available for adoption for the past two years. Most of her siblings have been adopted by a number of families.

A year ago she became known to the adoptive parents of one of her younger sisters. They immediately applied to adopt Anna. There were delays in getting the application processed, the homestudy completed, and in communicating between Child Welfare offices. Eventually Anna spent 10 days with them in the spring, not on a pre-placement visit, but on a sibling visit. Although the child and prospective adoptive parents did not know it, there were concerns about the couple's ability to adopt another child.

The child and adoptive parents were left in limbo through to late fall. Months later she was placed for adoption in another home where another sibling had been adopted.

"For the 1996-97 year, 717 children were made the subject of a permanent guardianship order. In that same year, only 323 Permanent Guardianship Orders were ended. Half of these orders ended because the youth had turned 18 and their files were closed, not because they found a Forever Home."

Forever Homes:
Terms of Reference
August 21, 1998

"A Court and all persons shall exercise any authority or make any decision relating to a child who is in need of protective services under this Act in the best interests of the child and in doing so shall consider the following as well as any other relevant matter: (m) there should be no unreasonable delay in making or implementing a decision affecting a child."

Section 2 (m) of the
Child Welfare Act

Delays in Court Hearings

One of the principles within the Child Welfare Act requires all persons making or implementing decisions affecting a child do so without unreasonable delay.

Frequently, Child Welfare matters requiring court hearings are delayed because there is a backlog of cases within the court system. Consequently, children, their families and others are affected by lengthy delays pending the outcome of an application before the courts. During the year, the situation in Edmonton was such that court hearings were delayed six to eight months.

This issue was of concern to Child Welfare staff and senior managers. In partnership with senior Child Welfare managers and with the support of senior judges, the matter was brought to the attention of the Department of Justice. Resource deficiencies due to heavy demands were determined to be the problem. The courts were unable to deal with the high volume of Child Welfare matters that came before them because there were not enough judges and courtrooms available. This backlog was felt most severely in Edmonton and Calgary. Unfortunately, the ensuing delay in disposition of Child Welfare cases is yet another barrier to sound permanency planning.

Frequently, Child Welfare matters requiring court hearings are delayed because there is a backlog of cases within the court system.

Comments

Delays in completing permanent guardianship orders are particularly problematic for younger children. These children usually bond with their caregivers while the process of securing a permanent guardianship order proceeds.

Once the order is obtained, permanent plans, including adoption may proceed. If these children have to move, they experience another painful separation and the challenge of forming new relationships.

Child Welfare Act

Section 2(m)

there should be no unreasonable delay in making or implementing a decision affecting a child.

United Nation's Convention on the Rights of the Child

Article 3:

In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.

Marilyn, Sharon and Brenda

These three young sisters were taken into protective custody in the fall of 1997. An application has been made to the Courts for a permanent guardianship order as the child welfare worker believes their parents are unable to resume responsibility for their care.

Over a year has elapsed without this application being heard by the Courts due to a number of adjournments. Each adjournment adds further months to the uncertainty these children experience. Without resolution of the application before the Courts long-range planning and commitments to the children cannot occur.

"The Minister of Family and Social Services is responsible for services to children and families, but authority for delivering those services is now delegated to the Child and Family Services Authorities (CFSAs). For the Minister to satisfy himself that his responsibilities under the Government Accountability Act are discharged by the CFSAs, an appropriate accountability framework should be in place."

Auditor General
Annual Report 1997-98
Page 14

Accountability

Child Welfare services in Alberta have historically been considered the responsibility of the Minister responsible for the administration of the Child Welfare Act. There has been a line of accountability that went from the Child Welfare workers on the front end of the service delivery system, through a hierarchical system, to the Minister.

This approach to the delivery of services had the advantage of everyone clearly knowing who was responsible for what. In recent years, this structure began to change in response to the desire of communities to assume responsibility for services to children and their families. Initially, the Province entered into agreements with First Nations and the Federal Government for the purpose of enabling Bands, or a group of Bands, to develop their own child welfare agencies. More recently, 18 Regional Authorities were created with similar rationale – to enable communities to create and manage their services in accordance with community priorities.

This office has supported the merit of community-managed services in the belief that children would benefit from services designed and delivered in accordance with their specific needs. A concern that we have though, is that we see increasing confusion as to who is responsible for what.

The observations of the Auditor General are strongly supported and we urge the Ministry to put in place a comprehensive and meaningful monitoring process without further delay.

Death of Children

Unfortunately, children and youth in all child welfare systems are sometimes seriously injured or killed. These matters have the potential to attract public attention and there is a tendency to suspect that if someone had done their job better the tragedy would not have happened.

There are processes within the Department that have been created for the purpose of reviewing these incidents. Special Case Reviews have been completed under the direction of senior managers to determine if the incident could have been prevented and what measures might be taken to reduce the likelihood of other such occurrences.

The deaths of all children in the care of a Director of Child Welfare are to be reported to a medical examiner and a fatality inquiry may be conducted.

Much can be learned from both processes that have the potential to benefit children in the future.

Across Canada there have been highly publicized deaths of children known to child protection services. Following the Gove Inquiry in British Columbia, a Children's Commission was established with a mandate to review the death of every child in that province. The Federal Government has shown an interest in child death review and is encouraging the development of common review processes, terminology, and other data collection across Canada.

In order to reduce the incidence of serious injury and death of children, we recommend that the Alberta government commit to the development of a comprehensive multidisciplinary child death review process.

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Inter-Regional Placements

With 18 Regional Authorities in Alberta there are many children who, in the course of receiving child protection services, need the support of more than one Region. It is not uncommon for children to move from one Region to another in order to maintain or re-establish significant relationships. Movement to a Region with specialized resources may also be in the best interest of some children.

It was our belief that Regional Authorities were initially supportive of assisting one another with these children. As Regional Authorities prepare to assume responsibility for Child Welfare delivery and inherit the funding and resources of the former delivery system, a growing resource protectionism is becoming evident in some areas. As some Regions struggle more than others with heavy caseloads and insufficient funding, they may become reluctant to accept children they believe could remain the responsibility of another Authority. The interests of children are not well served by replacing one form of bureaucracy with another.

More effective processes need to be put in place to ensure that inter-regional placement and service decisions are based on the needs of the young person.

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Responses to the 1997-98 Annual Report

The Children's Advocate has an opportunity to observe the Child Welfare system from a unique perspective. Being separate from that system and seeing the impacts through the eyes of the children it serves, enables the program to provide advice to the Minister from the perspective of the young people served.

Child Welfare Act

Section 2.1(3)

The Children's Advocate shall:

- (a) advise the Minister on matters relating to the welfare and interests of children who receive services under this Act and the provision of those services.

The Annual Report for 1997-98 provided an overview of several systemic issues that had been repeatedly referenced in previous Annual Reports. Difficulties in securing appropriate placements for children in care, inadequate permanency planning for children, and insufficient responses to the needs of adolescents were three long-standing concerns that were attributed primarily to the dramatic caseload growth in recent years.

At the time of the release of the 1997-98 Annual Report, the Minister announced that she would have a study completed which would explore the factors contributing to the Child Welfare caseload growth in Alberta.

A further theme of the Children's Advocate's Annual Reports in recent years has been the lack of appropriate services for older

"The most serious problem within the Child Welfare system is the growing number of children it has a responsibility to serve."

Children's Advocate
Annual Report 1997-98
Page 15

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youth in need of child protection services. From the perspective of this office, there is a large population of youth, primarily in the large urban areas, who experience:

- denial of services when they are without any support from their parents or extended family
- the refusal of services while in the care of Child Welfare.
- the premature termination of services in response to conflict with the youth or zero tolerance of a youth's inability to meet the worker's expectations.

These concerns were also recognized by the Minister. The Chair of the Youth Secretariat, MLA Gary Severtson, was assigned the task of completing a review of how the Child Welfare system responds to adolescents.

The final issue that received a response from the Minister related to the mandate and reporting line for the Children's Advocate. It was reported in the 1997-98 Annual Report that the program had heard from many sources that the mandate of the program should be expanded and the reporting line for the Children's Advocate reviewed. While the present mandate is to provide advocacy services for children in receipt of Child Welfare services, many people involved with the creation and governance of the 18 Child and Family Services Regional Authorities envision a program mandated to include other groups of children. They have argued that with one of their goals being to integrate services for children, it is inappropriate to have a Children's Advocate restricted to responding only to the children who have been found in need of protective services. The Growth Summit in 1997 also recommended a broader mandate. In addition, it has been suggested that the effectiveness of the program could be enhanced if it were to report directly to the Legislature rather than to a Minister.

The Minister has directed that the mandate of the Children's Advocate program be reviewed. In addition to identifying which children should benefit from individual advocacy services, the review will also explore the current systemic and information gathering processes. The possible role of the office in relation to fatality inquiries and special case reviews is also within the terms of reference for the review. The reviewers will also explore the role of formal advocacy services in relationship to the development of community advocates and volunteers.

The Minister has directed that the mandate of the Children's Advocate program be reviewed.

Another concern expressed in the previous Annual Report was that significant issues within the Child Welfare system had been reviewed through studies, some of which were never released. One report had been completed by a consultant on the province's adoption program while another examined the shortage of placement resources and strategies for improvements. While it has been encouraging to have senior officials within the Department acknowledge systemic issues and to undertake initiatives to review them, it is disappointing when the findings of these studies are not utilized.

In the past year both of these studies have been released and actions have been initiated to increase adoption placements and placement resources. The Minister has expressed her commitment to open discussion of service deficiencies and has welcomed critical comment. We find this approach very encouraging and believe it will increase the likelihood of service improvements.

The U.N. Convention on the Rights of the Child

Canada played a major role in the preparation of this convention which was adopted by the United Nations in 1989. Over the next two years, Canada consulted with the provinces and territories prior to ratifying the Convention on December 11, 1991.

Alberta did not lend Government support for the Convention until January, 1999 when Premier Klein formally acknowledged Alberta's support with some reservations. We applaud the Premier for taking that step and officially acknowledging that children do have rights as persons.

While Alberta did not officially support the Convention until recently, the Child Welfare Act has given expression to many key principles of the Convention.

Our work in advocacy on behalf of individuals involves attempting to have decision-makers recognize principles and rights established for the benefit of young people. Within Section 2 of the Child Welfare Act, matters to be considered, it is stated that all persons exercising any authority or making any decision under the Act shall consider a number of principles intended to respect the rights of children and families. This section of the Act is provided in the appendix to this report.

We are hopeful that greater attention will be given to understanding and respecting the U.N. Convention now that it has been formally endorsed by the Province.

"The Child Welfare Act (CWA) represents one of the high points in terms of legislative compliance. Though the CWA is not without flaws, it is in strong compliance with the Convention in several key respects."

U.N. Convention on the Rights of the Child: How does Alberta's Legislation Measure up?

Anna S. Pellatt and the
Alberta Civil Liberties Research Centre
Page 13

Appendix A Section 2 of the Child Welfare Act

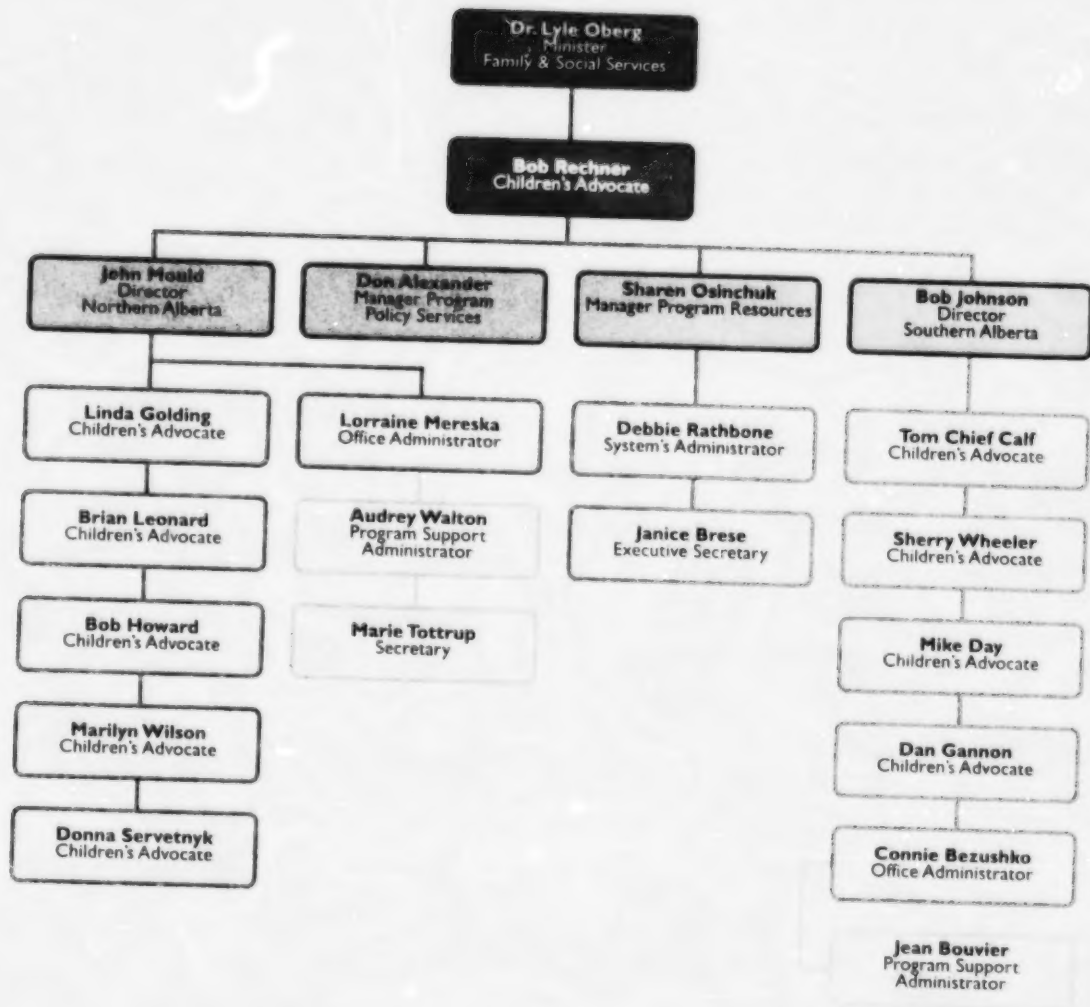
Matters to be considered

- 2 A Court and all persons shall exercise any authority or make any decision relating to a child who is in need of protective services under this Act in the best interests of the child and in doing so shall consider the following as well as any other relevant matter:
- (a) the family is the basic unit of society and its well-being should be supported and preserved;
 - (b) the interests of a child should be recognized and protected;
 - (c) the family has the right to the least invasion of its privacy and interference with its freedom that is compatible with its own interest, the interest of the individual family members and society;
 - (d) a child, if the child is capable of forming an opinion, is entitled to an opportunity to express that opinion on matters affecting the child and the child's opinion should be considered by those making decisions that affect the child;
 - (e) the family is responsible for the care and supervision of its children and every child should have an opportunity to be a wanted and valued member of a family, and to that end
 - (i) if protective services are necessary to assist the family in providing for the care of a child, those services should be supplied to the family in so far as it is reasonably practicable to do so in order to support the family unit and to prevent the need to remove the child from the family, and
 - (ii) a child should be removed from the family only when other less intrusive measures are not sufficient to protect the survival, security, or development of the child;
 - (f) any decision concerning the removal of a child from the child's family should take into account
 - (i) the benefits to the child of maintaining, wherever possible, the child's familial, cultural, social and religious heritage,
 - (ii) the benefits to the child of stability and continuity of care and relationships,
 - (iii) the risks to the child if the child remains with the family, is removed from the family or is returned to the family, and

(d) a child, if the child is capable of forming an opinion, is entitled to an opportunity to express that opinion on matters affecting the child and the child's opinion should be considered by those making decisions that affect the child;

- (iv) the merits of allowing the child to remain with the family compared to the merits of removing the child from the family;
- (g) if it is not inconsistent with the protection of a child who may be in need of protective services, the child's family should be referred to community resources for services that would support and preserve the family and prevent the need for any other intervention under this Act;
- (h) any decision concerning the placement of a child outside the child's family should take into account
 - (i) the benefits to the child of a placement that respects the child's familial, cultural, social and religious heritage,
 - (ii) the benefits to the child of stability and continuity of care and relationships,
 - (iii) the benefits to the child of a placement within or as close as possible to the child's home community,
 - (iv) the mental, emotional and physical needs of the child and the child's mental, emotional and physical stage of development, and
 - (v) whether or not the proposed placement is suitable for the child;
- (l) the provision of protective services is intended to remedy or alleviate the condition that caused the child to be in need of protective services;
- (j) if a child is being provided with care under this Act, the child should be provided with a level of care that is adequate to meet the needs of the child and consistent with community standards and available resources;
- (k) if a child is being provided with care under this Act, a plan for the care of a child should be developed that will address the child's need for stability and continuity of care and relationships;
- (l) a person who assumes responsibility for the care of a child under this Act should endeavour to make the child aware of the child's familial, cultural, social and religious heritage;
- (m) there should be no unreasonable delay in making or implementing a decision affecting a child.

Appendix B Organizational Chart



Appendix C

Information list

1. Standing Up For Kids

Case Advocacy for Children and Youth: Strategies and Techniques, Margo Herbert, M.S.W., R.S.W., for the Office of the Children's Advocate

2. The Children's Advocate

A Discussion Paper on the Future of Advocacy For Children, Children's Advocate Program, April, 1996

3. The Children's Advocate

A Program Consultation on the Future of Advocacy for Children in Alberta, Children's Advocate Program, February 1997

4. Working With Young People

A Guide to Youth Participation in Decision Making: Canadian Mental Health Association, 1995

5. Bridging the Gap

Goals for the Development of Youth Policy, Canadian Mental Health Association, 1992

6. Getting Together

Towards Partnership with Youth, Canadian Mental Health Association, 1993

7. Changing the Way Things Work

A Young People's Guide to Social Action, Canadian Mental Health Association, 1992

8. Someone to Listen

A videotape on the Children's Advocate program

9. Voices from Within: Youth Speak Out

Office of the Child and Family Service Advocacy, Ontario

Access to the above information may be gained by contacting the Children's Advocate

Office of the Children's Advocate

Hilltop House

9910 - 103 Street

Edmonton, Alberta T5K 0X8

1-800-661-3446

(780) 427-8934